

FILED

April 23 2008

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 06-0120

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

ORDER

IN re the Marriage of
CAROL HAGERMAN,

Petitioner,

and

GARY J. HAGERMAN,

Respondent.

On April 1, 2008, Respondent Gary J. Hagerman filed a *pro se* motion to remove Honorable Holly Brown, District Judge, for cause pursuant to § 3-1-805, MCA, in Gallatin County Cause No. DR-07-190B.

Section 3-1-805(1)(b), MCA, provides that an affidavit of disqualification shall be accompanied by a certificate of counsel of record that the affidavit has been made in good faith. Such affidavit shall be deemed to not have been made in good faith if it is based solely on rulings in the case made by the challenged judge.

The affidavit in support filed by Hagerman is based entirely upon rulings made in the case by the challenged judge and, therefore, is deemed not to have been made in good faith.

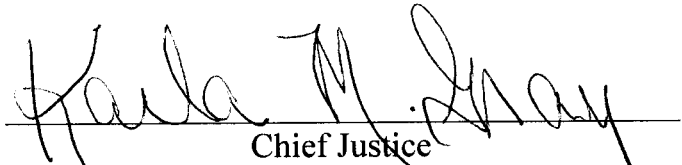
We determine that Hagerman's motion does not establish personal bias.

IT IS THEREFORE ORDERED:

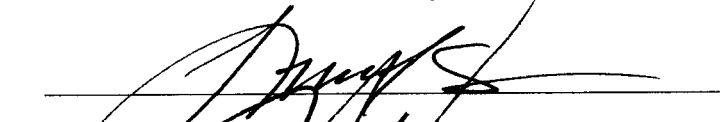
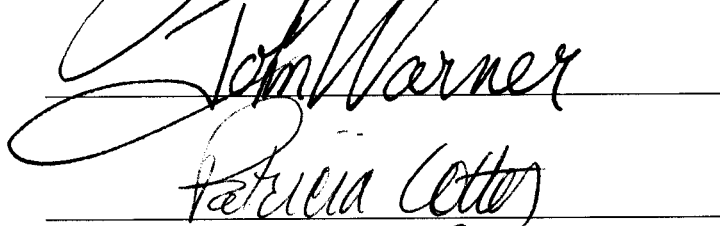
1. Pursuant to 3-1-805(1)(c), MCA, the affidavit of disqualification is set aside as void.
2. Hagerman's motion to disqualify the district judge in Gallatin County Cause No. DR-07-190B is denied.


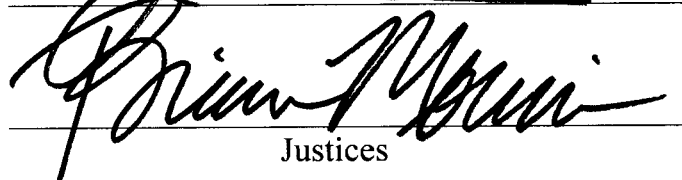
3. The Clerk is directed to mail a true copy hereof to the Clerk of the District Court of Gallatin County, Montana, for notification to counsel of record in DR-07-190B and to the Honorable Holly Brown, District Judge.

DATED this 23rd day of April, 2008.


Paula M. May
Chief Justice


W. William Rughart


John Warner

Patricia Cotto


Jim Rice

Brian M. Givens
Justices